

## **Module 4 Chapter 2: Child Welfare in Minnesota**

### **Chapter 2 Overview**

Laws that define and regulate child welfare services are an indispensable part of practice. Without the legal authority afforded by statute, child welfare agencies would be unable to intervene in situations in which children are being harmed. Child welfare legislation makes child protection possible.

In this chapter introduces you to:

- Parental rights and responsibilities
- Minnesota Statutes as they apply to children in need of protection or services
- Minnesota Rules
- Statutory definitions of child maltreatment
- Agency responses to maltreatment.

Throughout this chapter, there are links to specific Minnesota Statutes. You are encouraged to review each statute for a complete sense of the laws and legal definitions referenced in this training.

### **Parental Rights**

Recall from Module 2 our discussion of child welfare development in the United States. While change has occurred with regard to how children are treated, it is important to remember that parents do have rights and those rights must be safeguarded by child welfare workers in accordance with CAPTA requirements.

Parents generally have rights to:

- Physical possession of the child and to establish his or her legal residence
- Consent to the child's medical, psychiatric or surgical treatment
- Determine the child's religious affiliation
- Care for the child in the manner they see fit unless they are unable or unwilling to meet their responsibilities.

### **Parental Responsibilities**

Parenthood entails certain fundamental responsibilities. Basic parental responsibilities specified by law include:

- To provide care and support for the child, including clothing, food, shelter, medical care and education
- To control and protect the child
- To provide reasonable discipline and moral training.

When these responsibilities are not met, child welfare workers may be called upon to assist the family in meeting the needs of the child.

## Minnesota Statute 626.556

Minnesota Statute 626.556 (<https://www.revisor.mn.gov/statutes/?id=626.556>) was established in response to federal CAPTA legislation. This state law directly defines types of child maltreatment, responses to allegations of maltreatment, responsibilities of county human and social services departments and responsibilities of persons mandated to report suspected child maltreatment.

You will use Statute 626.556 almost every day, so it is critical that you see it as an essential resource and learn how to use it effectively.

### **MR 9560 Social Services for Children – Parts 0210 through 0850**

The primary parts of Minnesota Rule 9560 for child welfare are found under the part title, “Protective Services for Children.”

MR 9560 is an essential resource providing definitions, basic requirements, and procedural guidelines.

You will receive copies of appropriate parts of MR 9560 during classroom training. Your instructors will teach you how to appropriately reference the Rule as you work with different Minnesota statutes.

Now, let’s move to some basic statutory definitions related to child maltreatment.

### **The Crucial Element in Child Maltreatment: The Caregiver**

<https://www.revisor.mn.gov/statutes/?id=626.556>

For an agency to intervene in child maltreatment cases, the alleged perpetrator must be the child’s caregiver.

The statutory terminology is “**person responsible for the child’s care.**” This person functions in the family unit and has responsibilities for the care of the child. The person responsible can be a parent, guardian or other caregiver.

Further, the person responsible can be outside the family unit but still have responsibility for the care of the child and/or be in a position of authority over the child (such as a babysitter, coach, or teacher).

If the child is harmed by a person who does not meet the statutory criteria of a caregiver, the child welfare agency does not have authority to intervene and must refer the matter to the appropriate law enforcement agency.

Now let’s look at the basic definitions for the different types of child maltreatment.

## **Statutory Definitions of Child Maltreatment**

Child maltreatment is defined in Minnesota Statute 626.556 Subdivision 2. Simplified definitions are provided below; for complete statutory definitions, follow the link to Statute 626.556:

<https://www.revisor.mn.gov/statutes/?id=626.556>

**Substantial Child Endangerment:** A caregiver, who by act or omission, commits or attempts to commit an act that constitutes any of the following: egregious harm, sexual abuse and other sexual crimes, abandonment, neglect in certain forms, murder, manslaughter, assault, and malicious punishment.

**Sexual Abuse:** A caregiver subjects the child to any act which constitutes criminal sexual conduct in any degree, prostitution or threatened sexual abuse.

**Neglect:** Caregiver failure to:

- Provide necessary food, clothing, shelter, health, medical or other care required for the child's physical or mental health when reasonably able to do so.
- Protect a child from conditions or actions that seriously endanger physical or mental health.
- Provide necessary supervision based on a child's age, mental ability, physical capabilities and other needs.
- Provide education.

Neglect also includes:

- Prenatal exposure to controlled substances
- Medical neglect
- Chronic and severe use of alcohol or controlled substances that affect care of the child
- Emotional harm.

**Physical Abuse:**

- Any physical injury, mental injury or threatened injury inflicted on a child by a caregiver other than by accidental means
- Does not include reasonable and moderate disciplinary actions.

Types of actions that are not reasonable or moderate include, but are not limited to the following done in anger or without regard to the child's safety: throwing, kicking, burning, striking with a closed fist, shaking a child under the age of three, actions that result in any non-accidental injury to a child under 18 months of age, interference with breathing, threatening with a weapon, unreasonable confinement, or intentionally giving a child a substance not prescribed by a practitioner to alter the child's behavior.

**Mental Injury:** An injury to a child's psychological capacity or emotional stability as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

**Threatened Injury:** Any statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury.

Includes, but is not limited to, exposing a child to a caregiver who has been:

- Found to have committed egregious harm
- Found palpably unfit
- The subject of an involuntary termination of parental rights or involuntary transfer of permanent legal and physical custody of another child.

### **Rights of Children and Families**

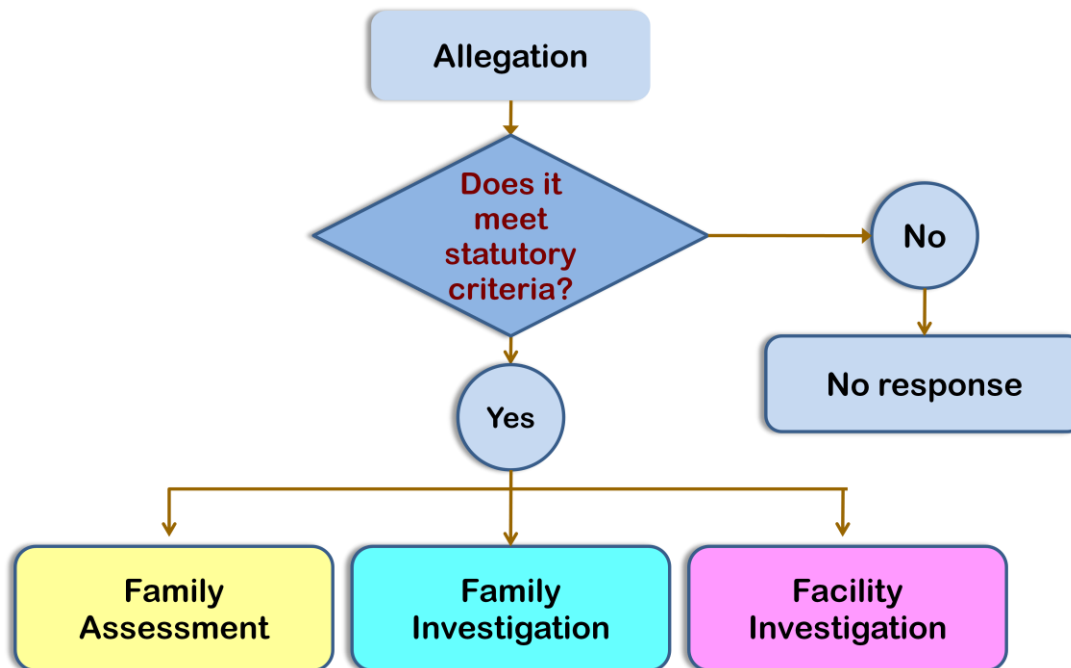
Allegations of child maltreatment are serious. However, you should always be aware that intrusion of a government agency into family life is also a serious disruptive action. Rights of children and families are legally protected; child welfare practitioners must have just cause for intervention when maltreatment is alleged.

### **Agency Responses in §626.556**

When you receive an allegation of child maltreatment, your first question is: "Does the allegation meet statutory definitions of maltreatment?"

**The agency cannot respond unless the allegation meets one of the definitions of maltreatment.**

When the allegation does meet statutory requirements, child protection workers respond through Family Assessment Response, Family Investigation or Facility Investigation.



### **Family Assessment Response**

This response is used for reports that do not allege substantial child endangerment. Family Assessment Response is a comprehensive assessment of child safety, risk of subsequent child maltreatment, and family strengths and needs.

### **Family Investigation**

A Family Investigation must be used when reports allege substantial child endangerment; it may be used in reports of non-substantial child endangerment according to agency policy.

Family Investigations involve fact-gathering related to the current safety of a child and the risk of subsequent maltreatment. The facts determine whether child maltreatment occurred and whether child protective services are needed.

### **Facility Investigation**

An investigation must be used when reports allege maltreatment in a facility, or when a child fatality occurs in a facility. Facility Investigations consist of fact-gathering related to the current safety of a child and the risk of subsequent maltreatment. The facts determine whether child maltreatment occurred within a facility setting.

Now that you are aware of the three agency response types, we will consider each in more detail, beginning with Family Assessment Response.

## Family Assessment Response (FAR)

### **Family Assessment**

A Family Assessment Response is conducted when allegations of child maltreatment meet statutory definitions.

A Family Assessment Response:

- Must meet statutory definitions for caregiver and maltreatment
- Does *not* allege substantial child endangerment
- Must be cross-reported to law enforcement
- Must establish face-to-face contact. Child welfare workers must have a face-to-face contact with the child, primary caregiver and alleged offender within five calendar days of receiving the report.
- Must comprehensively assess safety, risk, needs and strengths
- Must determine and send written notice of need for services within 10 days of completing the assessment
- Does not determine whether maltreatment occurred
- Must be completed within 45 days of receiving the report
- Must develop a case plan within 30 days of completing the assessment if services are determined necessary.

## Family Investigation

### **Family Investigation**

#### **Similarities with Family Assessment Response**

A Family Investigation has similarities to a Family Assessment Response, but there are important differences to remember. Let's start with the basic similarities.

A Family Investigation:

- Must meet statutory definitions for caregiver and maltreatment
- Must be cross-reported to law enforcement
- Must establish face-to-face contact. Child welfare workers must have face-to-face contact with the child, primary caregiver and alleged offender; differences in timelines are covered in the next screen.
- Must assess child safety and risk for continued maltreatment
- Must determine need for services
- Must be completed within 45 days of receiving the report

- Must develop a case plan within 30 days of completing the investigation if services are determined necessary.

Now let's look more closely at the additional components of a Family Investigation.

### **Family Investigation: Differences from Family Assessment Response**

These fundamental differences set Family Investigation apart from a Family Assessment Response. A Family Investigation:

- Alleges substantial endangerment
- Requires fact-gathering
- Must establish immediate face-to face contact – within 24 hours – with the child because substantial child endangerment is alleged. Contact with the primary caregiver and alleged offender must follow as soon as possible.
- Must include audio and/or video recording
- Must determine if maltreatment occurred and if services are needed. The alleged offender and primary caregiver must receive written notice within 10 days of completing the investigation.

### **Determinations in §626.556**

Let's take a closer look at statutory language and authority regarding **determinations** of maltreatment.

It is important to note that social workers have statutory authority to make **determinations only**. Determinations answer the questions, “Did maltreatment occur or not occur? Are services needed to reduce risk of maltreatment?”

You may hear social workers and professionals ask what **findings** were made in a child protection case. The correct answer is “none.” Child protection social workers make **determinations**; only the court has the authority to make **findings of fact** in a case.

### **Removal of Children**

Minnesota Statute 260C.175, located at: <https://www.revisor.mn.gov/statutes/?id=260C.175>

During the assessment or investigative process, high safety risks may result in a decision to remove children from their home. According to Minnesota Statute 260C.175, only law enforcement and the courts have authority to remove children from their families and place children into emergency protective custody. Social workers do NOT have authority to remove children from the home.

The process for removal is very specific in order to comply with Fourth Amendment rights protecting against unreasonable, warrantless entry and search, and unlawful seizure of minor children.

### **Child Removal Process: Law Enforcement Removal**

Law enforcement removal requires the child be found in surroundings or conditions that endanger the child's health, safety or welfare; or the officer reasonably believes the child's environment will endanger the health, safety or welfare of the child.

When law enforcement removes a child, the officer must document his or her reasons for removal in the report.

### **Child Removal Process: Court Removal**

Court removal requires an order, in a civil – not criminal – court proceeding, with specific findings of fact that reasonable grounds exist to believe the child is in surroundings or conditions that endanger health, safety or welfare if the child is not removed. The order is given at an emergency court hearing in which the social services agency petitions for the removal of a child.

An agency request for removal should not be the first response unless there is substantial child endangerment or egregious harm, and removal is the only viable way to ensure safety.

### **Child Removal Process: Voluntary Placement**

There are occasional instances during the assessment or investigative process when a caregiver voluntarily agrees to place his or her child in alternative care. You learn more about voluntary placements in a later module and classroom training.

## Facility Investigation

### **Facility Investigation**

The third agency response to an allegation of child maltreatment is the Facility Investigation.

Minnesota Statute 626.556 and other statute sections define a facility as:

- A licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium or other facility or institution required to be licensed
- A school
- A non-licensed personal care provider organization.

The child welfare agency is responsible to investigate allegations in child foster care, family child care and legally unlicensed child care, and in certain licensed juvenile correctional facilities located in the county.

### **Facility Investigation**



Similar to Family Investigation, a Facility Investigation must meet statutory definitions, must be cross-reported to law enforcement, and is a fact-gathering endeavor. However, because a facility typically has more than one client, reports may allege multiple victims and/or offenders.

Contact timelines are the same as in Family Investigation; this means immediate face-to-face contact with the alleged victim(s), followed by contact with the alleged offender(s).

You must record all interviews and make determinations regarding the alleged maltreatment. Determinations of need for services are not made.

There are many other issues in Facility Investigation; talk with your supervisor about additional training.

## **Assessment Outcomes**

Now that you have learned the types of assessment responses an agency can make to allegations of maltreatment, let's consider assessment outcomes for Family Assessment Response and Family Investigation.

### **Family Assessment Response**

When a Family Assessment Response is completed, you and the family determine if there is a need for services:

- When the family and agency agree that services are not necessary, the case is closed.
- When both parties agree that services are necessary, you collaborate to create a culturally appropriate and relevant case plan.
- When only one party believes services are necessary, discuss the differences and come to an agreement regarding services. Child safety must come first. Engage the family through strengths-based practice to jointly create a culturally appropriate and relevant case plan.

### **Family Investigation**

When a Family Investigation is completed, you determine whether maltreatment occurred and services are necessary:

- When you determine that no maltreatment occurred and no services are necessary, the case is closed.
- When you determine that maltreatment did occur but services are not necessary, the case is closed.
- When you determine that maltreatment occurred and services are necessary, the case is opened for case management. Collaborate with the family to create a culturally appropriate and relevant case plan.

## **CHIPS: Child in Need of Protection or Services**

<https://www.revisor.mn.gov/statutes/?id=260C.007>

Sometimes court intervention is necessary to protect a child. Intervention occurs through the **CHIPS Statute 260C.007** protects children who are determined to be victims of maltreatment and in need of services or protection. CHIPS proceedings are civil court proceedings.

Typically, a CHIPS petition is filed by the child welfare agency when the family is unable or unwilling to ensure child safety by correcting behavior or conditions.

The CHIPS statute allows the court to make a finding of fact regarding a child's need for protection or services. The court then orders necessary services to help the family correct problems or conditions that endanger the child. The child welfare agency provides these services.

A child may be under a CHIPS while residing in his or her home, or in out-of-home placement.

Not all families who maltreat their children will be subjects of a CHIPS petition. Consult with your supervisor and county attorney about the CHIPS petition process in your county.

### **CHIPS Statute: Egregious Harm**

Minnesota Statute 260C.007 Subd.14, located at:

<https://www.revisor.mn.gov/statutes/?id=260C.175>

Minnesota Statute 260C.007 Subdivision 14 defines one of the potential grounds to file a CHIPS petition, **egregious harm**. Click the link to read the full definition of egregious harm.

**Egregious harm** is defined as the infliction of bodily harm, or neglect, to a child. The caregiver demonstrates a grossly inadequate ability to provide minimally adequate parental care. Egregious harm includes, but is not limited to conduct that constitutes:

- A violation of sections within the Minnesota Criminal Code
- Infliction of substantial bodily harm
- Felony malicious punishment
- Felony neglect or endangerment
- Assault
- Conduct toward a child that constitutes criminal sexual conduct under certain sections of Minnesota Chapter 609.

Many other sections of the CHIPS statute apply to child protection workers. This material is covered in greater depth during classroom training.

## **Summary**

In this chapter, you learned the legal foundations of child welfare practice in Minnesota. The legal foundations include:

- Parental rights and responsibilities
- Minnesota Statutes 626.556 and 260C.007 as they apply to children in need of protection or services
- Minnesota Rule 9560
- Statutory definitions of child maltreatment

- Agency responses to maltreatment.

## Next Steps

Visit the following links to the Minnesota Office of the Revisor of Statutes:

- The Minnesota Statutes Table of Chapters at <https://www.revisor.mn.gov/statutes/> ; search for information by chapter.

Continue to build your training binder with documents and printouts from this chapter. File this transcript behind the Module 4 Transcript tab.

Consult with your supervisor about Facility Investigation training and filing a CHIPS petition.

When you are ready, begin Chapter 3.